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4 MAURICE WRIGHT,
5 Plaintiff,
6 v.
7 JERRY BROWN,
8 Defendant.

9 Case No. [15-cv-03236-EMC](#)
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13 **ORDER OF TRANSFER**
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15 Docket No. 1
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20 Petitioner has filed a form habeas petition under 28 U.S.C. § 2241. Petitioner is being held
21 in Coalinga State Hospital in Coalinga, California, under California's Sexual Violent Predator Act
22 ("SVPA"). *See* Cal. Welf. & Inst. Code § 6600, *et seq.* He is currently awaiting trial to determine
23 whether he is a Sexually Violent Predator subject to civil commitment under the SVPA. In his
24 petition, he argues that the California Department of State Hospitals is violating his double
25 jeopardy rights by using certain standards, procedures, and assessment tools to determine if he is a
26 Sexually Violent Predator. He also argues that abstention is not appropriate.

27 Section 2241 is the proper basis for the petition because Petitioner is a pretrial detainee
28 challenging the constitutionality of his confinement. *See Hoyle v. Ada County*, 501 F.3d 1053,
1058 (9th Cir. 2007) (§ 2241 proper basis for pre-trial double jeopardy challenge). Although this
court may have jurisdiction to hear a petition brought under § 2241, *see Braden v. 30th Judicial
Circuit Court*, 410 U.S. 484, 494-95 (1973), *Braden* also makes clear that "venue considerations
may, and frequently will, argue in favor of adjudication of the habeas claim in the jurisdiction
where the habeas petitioner is confined." *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 814 (D.C.
Cir. 1988). The preferable forum for a § 2241 habeas petition is the district of confinement. *See*
McCoy v. United States Bd. of Parole, 537 F.2d 962, 966 (8th Cir. 1976); *see also Dunne v.*

1 *Henman*, 875 F.2d 244, 249-50 (9th Cir. 1989) (suggesting that even where district court has
2 personal jurisdiction over custodian, preferred forum for § 2241 petition is district where
3 petitioner confined).

4 The commitment proceedings are in San Francisco County, which is in this district, and he
5 is confined in Fresno County, which is in the Eastern District of California. *See* 28 U.S.C. 84.
6 Pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-3(b), and in the interests of justice, this
7 action is **TRANSFERRED** to the United States District Court for the Eastern District of
8 California. Ruling on the request to proceed *in forma pauperis* will be deferred to the Eastern
9 District. The Clerk shall transfer this matter forthwith.

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IT IS SO ORDERED.

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Dated: October 28, 2015

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EDWARD M. CHEN
United States District Judge

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